

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANITA C. RAGANO ET AL.,

No. CV 11-3908 CRB

Plaintiffs,

ORDER REQUIRING RESPONSE

v.

MICHAELS STORES, INC. ET AL.,

Defendants.

This Order is in response to Plaintiffs' motion requesting final approval of class settlement, attorneys' fees, approval of an enhancement award to the class representatives, and reimbursement of claims administration fees and costs. See dkt. 59. Objectors, four plaintiffs in this class action ("Ragano Action") and another proposed wage-and-hour class action now pending against Defendants ("Rea Action"), have expressed a relatively narrow concern regarding the language in the proposed release. See dkt. 61.

Objectors are class members in the Ragano Action by virtue of having worked in non-exempt positions for at least a portion of the class period, and are class members in the Rea Action by virtue of having worked as Store Managers at a later time. The Rea Action is a misclassification suit in which Store Managers who were classified as exempt employees are asserting that they should have been classified as non-exempt employees.

The Objectors are concerned that if the proposed settlement is approved, and they later succeed in establishing that they should have been classified as non-exempt employees,

1 they will lose their right to recover for the time period within the Ragano Action class period
2 in which they were misclassified as exempt employees. Seeking to avoid such a scenario,
3 Objectors have proposed the following addition to the release in the Settlement Agreement:

4 Neither this Settlement Agreement, nor any matter contained therein, shall
5 in any way release, impair, or otherwise affect any claim that any past or
6 present Store Manager has, or may have, which arose from and in relation
7 to his or her employment as a Store Manager (all such claims expressly
8 preserved), and no party to the Settlement Agreement shall make a contrary
9 assertion in any court at any time.

10 Plaintiffs and Defendant shall (jointly or separately) file a response to Objectors'
11 proposed amendment, not to exceed three (3) pages, on or before noon on April 5, 2013. To
12 the extent Plaintiffs do not agree with the proposed language, Plaintiffs and Defendant shall
13 propose alternative language. Objectors may, but need not, file a reply, not to exceed three
14 (3) pages, on or before noon on April 9, 2013.

15 **IT IS SO ORDERED.**

16 Dated: April 1, 2013

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE